

AUG. 2. 2006 4:17PM

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AUG 02 2006

NO. 5439 P. 1

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United States Patent and Trademark Office Mail Stop Amendment Examiner: Alexander, Lyle Art Unit: 1743		571-273-8300

From : Barry S. Wilson  
Email Address : bwilson@foley.com  
Sender's Direct Dial : 858-847-6722  
Date : August 2, 2006  
Client/Matter No : 071949-1307  
User ID No : 3067

U.S. Application No.: 09/613,650  
Docket No.: 071949-1307

### MESSAGE:

Please find enclosed:

Request for Reconsideration of a Decision on Petition (2 pages);

Exhibit A (1 page);

Exhibit B (1 page).

If there are any problems with this transmission or if you have not received all of the pages, please call 571-273-8300.

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Cover Page 1 of 1

DLMR\_283108.1

AUG 02 2006

Atty. Dkt. No.: 071949-1307

***IN THE UNITED STATES PATENT AND TRADEMARK OFFICE***

Applicant: Kenneth F. Buechler

Title: DIAGNOSTIC DEVICES AND  
APPARATUS FOR THE  
CONTROLLED MOVEMENT  
OF REAGENTS WITHOUT  
MEMBRANES

Appl. No.: 09/613,650

Filing Date: July 11, 2000

Examiner: Alexander, Lyle

Art Unit: 1743

<b>CERTIFICATE OF FACSIMILE TRANSMISSION</b> I hereby certify that this paper is being facsimile transmitted to the United States Patent and Trademark Office, Alexandria, Virginia on the date below.
<u>Vanessa E. Agha</u> (Printed Name)
<u>Vanessa E. Agha</u> (Signature)
<u>August 2, 2006</u> (Date of Deposit)

**REQUEST FOR RECONSIDERATION OF A DECISION ON PETITION**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Attention: Office of Petitions:

Sir:

Applicant hereby petitions the Commissioner for reconsideration of the decision dated July 24, 2006, denying a petition under 37 CFR §§ 1.181 OR 1.182 to accept a filing as of it's date of facsimile transmission in accordance with 37 CFR §1.8.

The decision denying the petition is based on the absence of a receipt evidencing successful facsimile transmission on the date alleged. See Decision on Petition, paragraph bridging pages 2 and 3. A check of the documents in public pair show that no such facsimile transmission receipt is in the file history.

However, Applicants filed a copy of a facsimile transmission receipt with the Petition as evidenced by a date stamped return postcard, copy attached as Exhibit A. Applicants hereby attach a copy as Exhibit B of the facsimile transmission receipt for reconsideration. As discussed

DLMR\_288495.1

In re application of  
Kenneth F. Buechler  
Application No.: 09/613,650  
Page 2 of 2

Atty. Dkt. No.: 071949-1307

in the initial petition, the facsimile transmission of May 8, 2006 has met the requirements of 37 CFR § 1.8(a)(1)(i)(B) because it qualifies as a suitable document for facsimile transmission in accordance with 37 CFR § 1.6(d), and includes a certificate for each piece of correspondence stating the date of deposit or transmission.

Applicant submits that no fee is due for this Response to Office action or for filing this Petition because the response was lost by the USPTO following receipt. Upon the granting of this Petition, Applicants request that the Office refund the charge for the two months of extension and credit any loss of patent term extension resulting from any delay that incurred after May 8, 2006.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 50-0872. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 50-0872.

Respectfully submitted,

Date August 2, 2006

FOLEY & LARDNER, LLP  
Customer Number: 30542  
Telephone: (858) 847-6722  
Facsimile: (858) 792-6773

By Barry Wilson

Richard Warburg, Reg. No. 32,327  
By Barry S. Wilson, Reg. No. 39,431  
Attorney for Applicant

DLMR\_286495.1

## EXHIBIT A

Title: DIAGNOSTIC DEVICES AND APPARATUS FOR THE CONTROLLED  
MOVEMENT OF REAGENTS WITHOUT MEMBRANES

Inventor(s): Kenneth F. Buechler

Dkt. No. 071949-1307

Appl. No.: 09/613,650

BSW (6/15/2006)

Transmittal (2 pages);

Petition Under 37 §§ 1.181 or 1.182 to Accept a Filing as of its Date of Facsimile  
Transmission in Accordance with 37 CFR §1.8 (3 pages);

Copy of Response filed on May 8, 2006 (2 pages);

Communication Result Report of Facsimile Transmission (1 page);  
Return Postcard.

Due Date: Attorney Initials: BSW  
Date Filed: June 15, 2006 Insp. By: BSW



Commissioner for Patents:

Please acknowledge receipt of the above-identified documents by applying the U.S. Patent and Trademark Office  
receipt stamp hereto and mailing this card.

Respectfully,  
Foley & Lardner LLP

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EXHIBIT B

NO. 5439 P. 5

P. 1

\* \* \* COMMUNICATION RESULT REPORT ( MAY. 8. 2006 4:54PM ) \* \* \*

FAX HEADER 1: FOLEY 8587926773  
FAX HEADER 2: FOLEY 8587926773TRANSMITTED/STORED MAY. 8. 2006 4:48PM  
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21/21

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From : Barry S. Wilson  
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 Date : May 8, 2006  
 Client/Matter No : 071949-1307  
 User ID No : 3067

Serial Number: 09/613,650

Our Docket Number: 071949-1307

## MESSAGE:

Please find enclosed:

Transmittal (3 pages);  
 Response to Office Action (12 pages);  
 Information Disclosure Statement (3 pages);  
 PTO Form SB/08 (1 page);  
 Credit Card Payment Form (1 page).

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